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Commission Members & Staff

Bobby Colson, Chairman
Middle Tennessee Member
Term: 08/31/2004 – 08/31/2007

Kenneth Dreaden, Vice Chairman
At-Large Member
Term: 11/10/2005 – 08/31/2008

Howard Phillips, Board Member
East Tennessee Member
Term: 09/01/2003 – 08/31/2009

Marvin Alexander, Board Member
West Tennessee Member
Term: 11/30/2004 – 08/31/2007

Consumer Member - Vacant

Lynn McGill Administrative Director

Sheila Piper Administrative Assistant

Mission Statement

The Mission of Tennessee Auctioneer Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

State of Tennessee
Department of Commerce &
Insurance
Tennessee Auctioneer Commission
500 James Robertson Parkway
Davy Crockett Tower - Sixth Floor
Nashville, Tennessee 37243-1152

615-741-3236 Fax – 615-741-1245

www.state.tn.us/commerce/boards/auction

From the Chairman

by Bobby Colson, Chairperson

In the coming months, the Auctioneer Commission will be considering Rule changes. The procedure we must go through is outlined in another article in this newsletter, beginning with reviewing the proposed changes on December 5, 2006. Following this meeting, the proposed changes will be posted on the TAC website or will be available from the TAC office. In February, there will be a public hearing where licensees and consumers can give their views - for, against, or otherwise - on the proposed changes.

Prior to being appointed to the Auctioneer Commission, I had attended several Commission meetings, and I encourage all auctioneers, apprentice auctioneers, firm and gallery license holders to make a point of trying to attend a commission meeting in the coming year. These meetings are informative and educational. In past meetings, at our request, the Chief Fiscal Officer for the State of Tennessee appeared to educate the Commissioners and attendees on how the state fiscal processes worked.

We have also held a meeting with the Department of Commerce and Insurance's Executive Director of Investigations. This was a very positive meeting and we all left confident of our Investigative process. Even though we no longer have our own Investigator, we have qualified, trained, and capable Investigators located across the state. Complaints should be directed to the TAC Staff.

The auction business is growing every year, creating new challenges for all of us. Until I became involved in the process, I never really appreciated the difficult job facing the Commissioners and staff, so please, help us take care of it by treating everyone fairly. Remember, sellers, as well as buyers, are members of the public and need to be protected.

If you have any questions, call me or any of the Commissioners.

TAC Continuing Education Seminar (Fall 2006)

The Tennessee Auctioneer Commission held its Fall CE Seminar on Friday, October 20, 2006 at the Music Road Convention Center in Pigeon Forge, TN. Chris Pracht of Anderson, South Carolina provided 4 hours on taking a Contract to Closing and Cathy Russell of the East Tennessee Regional Office of the Tennessee Department of Revenue presented a 2 hour Sales Tax Update and Review.

This Seminar represented a change being held on a Friday *and* at a new location. The response among participants was overwhelmingly positive on the location change, the host facility, the date and the presenters. It was a great success. Chris Pracht has agreed to provide the same program in our upcoming West and Middle Tennessee programs and the Department of Revenue will provide a speaker for the West and Middle Tennessee seminars, as well.

If you missed out on this dynamic seminar in Pigeon Forge, you'll have two more chances: February in West Tennessee and May in Middle Tennessee. (See the back cover of this publication for dates).



At the TAC Fall Seminar: A room full of auctioneers, apprentices, firm, and gallery licensees look on as Chris Pracht presents his "From Contracts to Closing" program at the TAC Fall Seminar held in Pigeon Forge, TN on October 20, 2006.

Please Note: To insure proper credit for attendance, licensees must have their pocket card with them at registration and must record the correct license number on the sign-in sheet. Incorrect or missing license numbers will result in the rejection of the submitted hours. It is the responsibility of the auctioneer to provide the correct information to insure proper credit for their continuing education hours, and it is the responsibility of the auctioneer to sign themselves in and out at CE Seminars. We look forward to seeing you at our next seminar.

Happy Holidays and Wishes for a Joyous New Year

Speaking of Sales Tax....Part II

From John Harvey, Taxpayer Services Division, Tennessee Department of Revenue (07/26/2006)

Important Note: *"Any opinion from tax law or regulations given herein is believed to be a correct interpretation. However, the opinions cannot constitute a revenue or letter ruling pursuant to the provisions of Tenn. Code Ann. Sect. 67-1-109."*

1. In the case of a business liquidation auction, where equipment and/or machinery is being sold, should the auctioneer collect sales tax?

"Under Tennessee Sales and Use Tax Rule 1320-5-1-.01, as long as the auctioneer discloses the principal (i.e. publicly identifies the person who owns what the auctioneer is selling), the auctioneer has no liability for the tax."

In the case of a business liquidation, if the liquidating business is in the business of selling what is being sold at auction (in other words, the auction is liquidating business inventory), such sale to a consumer is subject to sales tax.

However, if the liquidating business is selling items, equipment, or machinery that it has used in the conduct of business, such sale, whether directly by the business or through an auctioneer, is not taxable, provided the auctioneer had "disclosed the principal" (i.e. named the owner of the equipment that has been used in the conduct of business) at or before the auction.

If the auctioneer is selling machinery for a retailer that normally sells the machinery, the retailer is liable for tax, and the auctioneer will normally collect tax on behalf of the business. If the retailer is liquidating the business and selling both items from inventory that the retailer normally sells and items having been used in the conduct of the business, all machinery sales become taxable when sold to consumers.

If the auctioneer fails to name the owner, the auctioneer is liable for tax, regardless of the nature of the items being liquidated."

2. In the case of an estate sale where the heirs are selling an estate, or an individual is selling their estate, should the auctioneer collect sales tax?

"For estate sales, if the auctioneer discloses the principal, the sale is usually a casual and isolated sale and not subject to tax. Again, if the auctioneer failed to name the owner, the auctioneer is liable for the tax."

"The Tennessee Department of Commerce and Insurance is committed to principals of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator at 615-741-2177 (TDD).



TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE AUTHORIZATION No. 335170, Revised 08/06. This public document was promulgated for 3500 copies per issue, at a cost of 37 cents per copy, paid by the Tennessee Auctioneer Commission Education and Recovery Fund.

HOW RULES GET CHANGED

In a recent TAC meeting, the question was raised as to who exactly promulgates (*identifies*) the proposed rule changes. The needs for changes are identified over a period of time by a variety of sources to address issues of clarity or antiquated information contained in rules. The need for changes can be identified:

- from issues brought before the Commissioners,
- by the Commissioners as they go about conducting the business before them
- by Commission legal counsel, and
- by TAC staff, who, in the course of day to day business may identify issues needing clarification in the rules, or information which is out of date.

As issues are identified in the current rules, these issues are recorded for potential rule changes.

Once the rules issues are identified and documented, they are presented to the Commissioners to evaluate, discuss and review. The result of this discussion is to identify those items which need changing, updating or clarifying and to draft specific changes to the rule(s). Once these have been identified and drafted, the Commissioners vote to proceed with the change process on each of the proposed changes and they compile a final list of changes to be presented for a Rule Making Hearing.

The Tennessee Code Annotate (TCA) outlines strict procedures for Rule Changes in the State of Tennessee under the Administrative Procedures Act. Agencies, such as the Tennessee Auctioneer Commission can promulgate (*identify*) proposed rule changes, but TCA Title 4, Chapter 5, Part 2 identifies the process to move forward.

This is a relatively long process which allows all interested parties the opportunity to address the proposed changes.

Earlier this month, the Tennessee Auctioneer Commission met to vote on the final list of proposed changes to the TAC Rules and Regulations. A Rule Making Hearing will follow in the months to come.

For information on the Rule Making Hearing and to obtain a copy of the proposed rule changes, visit the TAC website at www.state.tn.us/commerce/boards/auction.

Consumer Member John McLemore has resigned his position on the Tennessee Auctioneers Commission, effective December 1, 2006. A new appointment to the consumer post will be forthcoming.

REMINDER: Be sure to have your license number handy when you call the TAC office.

AUCTION COMPANY SIGNS

The Tennessee Auctioneer License Law and Regulations Manual (currently referred to as “The Red Book”) **lists the following guidelines regarding Business Location and Signs under TCA 62-19-118:**

(a) Every person licensed under this chapter shall maintain a definite place of business in this state, except as hereinabove provided as to nonresidents, and shall erect and maintain a sign in a conspicuous place on the premises at or near the outside entrance to the principal office and all branch offices.

(b)(1) The sign shall be written in clear and legible letters of not less than two inches (2”) in height, and shall clearly show the person’s name and indicate that the person is an auctioneer or show the firm name and indicate that the firm is in the auction business.

(2) The sign shall be placed so that it can easily be observed and read by anyone entering the place of business. However, licensees maintaining a place of business in multistory office buildings shall be deemed to comply with this section if their names and professions are displayed on the directories of the building in the usual fashion and manner of other tenants therein located.

(c)(1) The commission may waive the requirements of subsections (a) and (b) in the event of a conflict with local ordinances, or other unusual circumstances.

(2) The commission has the authority to promulgate rules with regard to advertising auctions in Tennessee.

Note: The above law addressed signs at the auction business location only. The TAC Rules and Regulations address signs which serve to advertise a specific auction event.

Important Information to Remember:

All licensees have **sixty (60) days** to notify the Tennessee Auctioneer Commission in writing of any changes of information including:

- Change of Business Address
- Change of Employment Status
- Change of Escrow Account Information

Notifications should be sent to TAC at the address on the front of this publication. (*Reference TCA Rules 0160-1-.24*) A Change of Address costs \$ 35.00.

WANTED...

The Tennessee Auctioneer Commission needs updated contact information for the following licensees. If you know any of these persons or companies, please ask them to contact us (or let us know how to contact them) to update their information:

Doc’s Auction House
Melinda Thornton
County Line Auction
Almost Sisters Auction Gallery
Danny Ivy’s Auction Company
70 South Auction
Covington Realty & Auction, LLC
American Auction Co.
American Auction & Salvage
Billy Cox
Cox Land & Auction
A & L Auctions
Jack E. Davenport
Charline Ladd
Ferguson Wholesale & Auction
Earl Dale
Shawn Smith
Hershel Brady
Larry Wayne Harris
Fountain Valley Auction
F & F Auction Co.
Richard French
11 W Auction
Thomas Ray Lovell
Paris Auto Auction-Larry Seay
Midway Auto Auction-Larry Seay
Clements Antiques of Texas, Inc.
Hampshire House Auctions-Charles Gerald Rosato
The Peddlers Place and Auction House
Perimeter Auctioneers
Ricky I. Underwood
Greg M. Forke
The Real Estate Connections
Numarkets
It’s A Small World-Mac Horn
Maryville Auction Gallery
William E. Murray
Twin-Cities Realty & Auction Company
Tony W. Fink
Old Factory Auction Services-Randy Norman
Billy R. Pope
George James Realty & Auction
Bill’s Auction House

Current Contact Information can be sent to:

**Tennessee Auctioneer Commission
500 James Robertson Parkway
Davy Crockett Tower – 6th Floor
Nashville, TN 37243-1152**

State of Tennessee
Department of Commerce and Insurance
Tennessee Auctioneer Commission
500 James Robertson Parkway
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Save the Dates:

Monday, February 26, 2007 CE Seminar (Jackson)
Tuesday, May 22, 2007 CE Seminar (Manchester)

Next Quarterly Publication: March 15, 2007

Tennessee Auctioneer Commission

Continuing Education Seminar

The Doubletree - Jackson, TN
In the University Conference Room

Monday, February 26, 2007
9:00 am – 4:00 pm (central)

"From Contracts to Closing" 4 hours

Presented by Chris Pracht, CAI, AARE, CES

"Sales Tax Update" 2 hours

Presented by the TN Dept. of Revenue

Directions to the Continuing Ed Seminar:

Whether you are driving east (from Memphis) or west (from Nashville) on I-40, take the 80A Exit. Drive 1/2 mile south (through 2 traffic lights). The Doubletree Hotel Jackson is on the left.



A special rate is blocked until February 1, 2007 under "TAC" of \$ 89/night. Call Toll Free: 1-800-222-Tree to take advantage of the special rate.

**BE SURE TO HAVE YOUR POCKET CARD
WITH YOU TO CHECK-IN**